

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10704 of 2003

For Approval and Signature:

HON'BLE DR.JUSTICE J.N.BHATT

=====

1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

VADODARA MUNICIPAL CORPORATION

Versus

GOVIND MAHADEV JOSHI

Appearance:

1. Special Civil Application No. 10704 of 2003
MR PRANAV G DESAI for Petitioner No. 1
UNSERVED-EXPIRED (R) for Respondent No. 1/1,1/4
MR SJ GAEKWAD for Respondent No. 1/2-1/3,1/5-1/6

CORAM : HON'BLE DR.JUSTICE J.N.BHATT

Date of decision: 12/08/2004

ORAL JUDGEMENT

In this petition, under Articles 226 and 227 of the Constitution, a short question has emerged with regard to, as to whether the directions of the Labour Court in

impugned order in a Recovery Application being Recovery Application No.2166/89 dated 03.10.2002 recorded by the Labour Court, Vadodara pursuant to the award passed in a Reference being Reference (IT) No.39/86, whereby, the petitioner, Vadodara Municipal Corporation is directed to pay the difference of amount not paid, though due and payable under the award of the Industrial Tribunal with effect from 16.9.1986 in the pay scale of Rs.550-900 by invocation of provisions of Section 33(c)(2).

Section 33(c) pertains and prescribes for the provisions of recovery of the money due from an employer and sub section (2) of section 33 in clear term provides that where any workman is found and entitled to get from the employer any money or any benefit, which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question can be decided by the Labour Court, as may be specified in this behalf by the appropriate Government.

It is, therefore, very clear that where any money is due to a workman from any employer, either under the settlement or an award or under the provisions of the Industrial Disputes Act, the workman has a right to move the appropriate Court for recovery of the dues.

There is no dispute about the fact that the award has been passed between the parties in a reference by the Industrial Tribunal being Reference (IT) No.39/86 and the Labour Court in the impugned order of recovery under Section 33 (C)(2) has only directed that part of the amount has been paid to the workman and whatever he has been entitled or whatever the petitioner employer is bound to pay under the award of the Industrial Tribunal, dated 15.2.1989, the difference has been directed to be paid in the impugned order. The order passed by the Labour Court in the facts and circumstances of the case as well as, in light of the provisions of Section 33 (c)(2) of the Industrial Disputes Act, could not be said to be in any way unjust, unreasonable, or perverse requiring interference of this Court in exercise of powers of writ jurisdiction. Therefore, petition is totally meritless and deserves to be rejected. Accordingly, the petition is rejected with costs. Rule is discharged. Interim relief granted earlier shall stand vacated.

[J.N.BHATT, J]

